

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Coto

February 27, 2009

An act to add Section 39 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as introduced, Coto. State taxes: vote requirement.

The California Constitution provides that any changes in state taxes enacted for the purpose of increasing revenues collected pursuant to those taxes, whether by increased rates or changes in methods of computation, must be imposed by a bill passed by not less than $\frac{2}{3}$ of the membership of each house of the Legislature. Existing law does not define the specific terms used in establishing this vote requirement, or specify the manner in which this vote requirement is to be applied.

This bill would clarify the meaning of state taxes for purposes of this constitutional vote requirement.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Section 3 of Article XIII A of the California Constitution
- 4 establishes a legislative two-thirds vote requirement for the passage
- 5 of certain tax bills as part of an interlocking system of tax relief

1 established by the voters in approving Proposition 13 at the June
2 6, 1978, statewide primary election.

3 (b) Article XIII A of the California Constitution also includes,
4 among other provisions, a limit on the assessed values of real
5 properties and a limit on the rate of property tax to be applied to
6 those values.

7 (c) Thus, Section 3 of Article XIII A of the California
8 Constitution should be read in light of the intent of the voters to
9 generally limit the Legislature's ability to enact increases in state
10 tax revenues to offset reductions in local property tax revenues.

11 (d) In upholding the validity of Article XIII A of the California
12 Constitution, the California Supreme Court expressly recognized
13 the existence of ambiguous provisions in Article XIII A of the
14 California Constitution, and the need for legislative clarification
15 over time of the meaning of those provisions (*Amador Valley Joint*
16 *Union School Dist. v. State Board of Equalization* (1978) 22 Cal.3d
17 208, 244).

18 (e) The courts have long recognized that the meaning of terms
19 used in the California Constitution may be defined or clarified by
20 statute.

21 (f) Among the provisions of Article XIII A of the California
22 Constitution that warrants statutory clarification is the legislative
23 two-thirds vote requirement established by Section 3 of that article
24 for the passage of certain tax bills.

25 (g) In particular, the term "state taxes," used in Section 3 of
26 Article XIII A of the California Constitution relative to the scope
27 and operation of the legislative two-thirds vote requirement set
28 forth in that section, has never been specifically defined or
29 interpreted, whether by statute or by the courts, and, as a result,
30 has been the source of debate for many years.

31 (h) Statutory clarification of this term will facilitate a clear and
32 consistent application of the legislative two-thirds vote requirement
33 of Section 3 of Article XIII A of the California Constitution in
34 furtherance of the purposes of that provision.

35 (i) It is the intent of the Legislature in enacting this act to provide
36 greater clarity as to the application of Section 3 of Article XIII A
37 of the California Constitution, and to facilitate a clear, consistent,
38 and reasonable implementation of those provisions.

39 SEC. 2. Section 39 is added to the Revenue and Taxation Code,
40 to read:

1 39. For purposes of Section 3 of Article XIII A of the California
2 Constitution, “state taxes” means taxes that are imposed by state
3 law, levied and collected by the state, and required by state law to
4 be deposited in the State Treasury. “State taxes” for this purpose
5 do not include any ad valorem property tax that is subject to Article
6 XIII or Article XIII A.

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